



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,964	10/30/2003	Neelam N. Vaidya	5681-54200	8464
58467 MHKKG/SUN P.O. BOX 398 AUSTIN, TX 78767	7550 08/14/2008			
EXAMINER				
WU, JUNCHUN				
ART UNIT		PAPER NUMBER		
2191				
MAIL DATE		DELIVERY MODE		
08/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/696,964

Applicant(s)

VAIDYA, NEELAM N.

Examiner

JUNCHUN WU

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to amendment filed on May 6, 2008.
2. Claims 1-22 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by PatchLink Corporation (“PatchLink®Update™4.0 White Paper Cross-platform Security Patch Management”, hereinafter “PatchLink”).

Per claims 1 and 12

PatchLink discloses

- a method or system for patching applications, comprising: deploying a patch package on a first computer running a first type of operating system, wherein the patch package comprises a patching mechanism and a first set of one or more new code components, and patching mechanism is also executable on a second computer running a second type of operating system; and executing the patching mechanism on the first computer, wherein executing the patching mechanism comprises replacing a first set of one or more old code components in a first application with the first set of one or more new code components (The white paper of PatchLink implicitly discloses a method for cross-platform patching of applications on page 1 Abstract “*a new solution for managing and*

distributing critical patches that resolve known security vulnerabilities and other stability issues in all Microsoft operating systems (95, 98, ME, NT, W2K, XP, .NET), UNIX (Linux, Solaris, AIX, HP-UX, etc.), and Novell Netware. PatchLink Update 4.0 is the only patch detection and deployment software available for managing these heterogeneous network environments." & on page 8 "**Patch Compliance Assurance Mechanism (PCAM):** PatchLink Update has the ability to lock down the information about a set of patches and update the configuration against a group of computers...." & on page 8 "**Software distribution:** Administrators have the flexibility of creating software packages. They can then deploy these packages in the same manner as other PatchLink packages to the client computers.").

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 5, 11-13, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain et al. (US Patent No. 6,434,744 B1, hereinafter "Chamberlain"), and in view of Curtis (US Patent No. 6,601,236 B1, hereafter "Curtis").
7. Per claims 1 and 12

Chamberlain discloses

- a method or system for patching applications, comprising: deploying a patch package on a first computer running a first type of operating system, wherein the patch package comprises a patching mechanism and a first set of one or more new code components (col.5 lines 10-12 *“for patching a software application and providing an installer program with notice of a patch's existence...”* & lines 19-23 *“the present invention provides a mechanism by which the launching of a patch file, termed a “patch package,” is passed to the installer program and the installer program takes control of applying the patch.”*).
- executing the patching mechanism on the first computer, wherein executing the patching mechanism comprises replacing a first set of one or more old code components in a first application with the first set of one or more new code components (col. 14 lines 30-36 *“At step 834, the installer program 201 alters the program file by replacing the affected bits of the program file with the patch bits. This may be accomplished by the installer program 201 executing a patching routine that replaces the affected bits with the new patch bits. Since techniques for applying patch bits to a program file to achieve an altered or updated program file are known to those skilled in the art”*).

But Chamberlain does not explicitly disclose

- patching mechanism is also executable on a second computer running a second type of operating system.

However, Curtis discloses

- The installation program installs files using the cross-platform code, written in a cross-platform language such as Java (col.13 lines 29-42 “...Further, the preferred embodiment install program 17, which operates in the same manner across different operating system platforms, has the same affect on the operating system as the native installation program.”)
- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify teaching of Chamberlain with the teachings of Curtis to include the patching mechanism is also executable on a second computer running a second type of operating system in order to provide a method using a cross-platform installer install programs across multiple operating systems and simply interpreted as patch mechanism executing patches to a second computer which is running on different type of operating system.

8. Per claims 2 and 13

the rejection of claim 1 is incorporated and Curtis further discloses

- deploying the patch package on the second computer, wherein the patch package further comprises a second set of one or more new code components; and executing the patching mechanism on the second computer, wherein executing the patching mechanism comprises replacing a second set one or more old code components in a second application with the second set of one or more new code components, wherein the second application is functionally equivalent to the first application (col.8 lines 33-50 “Preferred embodiments of the invention include a) an installer tool kit, including a system, method,

and program, that enables the creation of install programs for any one of a plurality of operating systems as described herein, b) an install program that can be used for multiple platforms to install an application program on a specific operating system; i.e., the same install program can be used to install a similar application program on different operating systems, c) a method for carrying out the functions of the install program, and d) a computer system running the install program on a specific operating system for installing an application program.” From foregoing discussion, the updating patches may apply to other workstations running on different operating system.)

9. Per claims 5 and 16

the rejection of claim 1 is incorporated and Chamberlain further discloses

- storing the first set of one or more old code components in a separate location before being replaced with the first set of one or more new code components (col.1 lines 17-21 *“The one installer program that comes close to addressing all of a computer user's needs manages the installation of an application so that information related to of each of the application's resources is stored in a "configuration database."”*).

10. For claims 11 and 22

the rejection of claim 1 is incorporated and Curtis further disclose

- The user interface for the patching mechanism is the same on different platforms (col.7 lines 7-19 *“There are certain platform specific operations that are taking place throughout the different objects, i.e., the helper classes 301, install objects 330, etc.*

Therefore, there is a platform specific module/interface. It is referred to herein as CPP 201. It defines a set of methods, that are representative of different operating systems, for functions that need to take place for an install...").

11. Claims 3, 4, 6, 7, 14, 15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain, in view of Curtis and further view of Moshir et al. (US Pub. No. 20020100036 A1, hereafter "Moshir").

12. Per claims 3, 4, 14 and 15
the rejection of claim 1 is incorporated
But Chamberlain and Curtis do not disclose

- the patching mechanism is a script written in a cross-platform scripting language.

However, Moshir discloses

- the patching mechanism is a script written in a cross-platform scripting language ([0050] " *Programming languages and tools such as Java, Pascal, C++, C, Perl...,*").
- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Chamberlain and Curtis and further include the patching mechanism is a script written in a cross-platform scripting language by the teachings of Moshir in order to use suitable programming language to implement patch by those of skill in the art ([0050]).

13. For claims 6 and 17
the rejection of claim 1 is incorporated

But Chamberlain and Curtis do not disclose

- restoring the first set of one or more old code components to the first application.

However, Moshir discloses

- restoring the first set of one or more old code components to the first application [0065]
“in some instances when failure is detected the software update is disabled or removed 324 from the target computer, and that machine is returned substantially to its pre-update state or another acceptable (working) non-update state. This may mean that the installed software is taken off the target machine 322; or that not only is the software removed, but all the ancillary files (.dll's, .exe's, etc.) are restored to their pre-update state.”
- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Chamberlain and Curtis and further include restoring the first set of one or more old code components to the first application by the teachings of Moshir in order to provide a mean that target computer was backed up before the software update was installed. When software update is disabled, the backed itself is restored onto machine ([0065]).

14. For claims 7 and 18

the rejection of claim 1 is incorporated

But Chamberlain and Curtis do not disclose

- wherein the patch package further comprises a patch information file, wherein the patch information file comprises information on the first set of one or more new code

components and information regarding which application the patch package is applicable to patch.

However, Moshir discloses

- wherein the patch package further comprises a patch information file, wherein the patch information file comprises information on the first set of one or more new code components and information regarding which application the patch package is applicable to patch ([0079] “*The illustrated patch fingerprint comprises one or more general inventory install dependencies 912 that can be used to take a high-level look to see if a specific patch can be installed on a machine. It also includes a signature block 910 that can be used to request specific information from, a target computer 500, and an existence test 908 which can use the signature block information to determine if a specific patch has been loaded on a machine.*”).
- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Chamberlain and Curtis and further include the patch package further comprises a patch information file, wherein the patch information file comprises information on the first set of one or more new code components and information regarding which application the patch package is applicable to patch by the teachings of Moshir in order to check the information about the target computer that included software should be present (such as specific version of a program, a patch, a data file or a driver ([0090])).

15. Claims 8-10 & 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain, in view of Curtis, Moshir and further view of Taylor (US Patent No. 6,161,218).

16. For claims 8 and 19
the rejection of claim 7 is incorporated
Chamberlain discloses

- the patch information file further comprises information on what bugs the patch package is operable to fix (col.1 lines 44-48 *"patching" refers to the art of modifying or updating an application from one state to another state. Often, patching is performed if an application is in need of a service release or update to remedy a programming bug or other infirmity."*).

But Chamberlain, Curtis and Moshir fail to disclose

- information regarding which other patch packages the patch package is incompatible with.

However, Taylor discloses

- information regarding which other patch packages the patch package is incompatible with [col.7 lines 56-57].
- Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine teachings of Chamberlain, Curtis and Moshir and further include information regarding which other patch packages the patch package is incompatible with by teaching of Taylor in order to scan all the patches in target package's information list and to verify that it is ok to install the patch [Taylor col.7 lines 20-22 & lines 39-41].

17. For claims 9 and 20

the rejection of claim 8 is incorporated

But both Chamberlain and Curtis do not disclose

- storing information on one or more other patch packages that have been previously applied to the first application in a package information file.

However, Moshir discloses

- storing information on one or more other patch packages that have been previously applied to the first application in a package information file ([0128] “*The offsite update server can be configured to store in permanent memory the packages that have already been stored on each target computer. When a new package becomes available, or during the installation of an existing package, existing evidence of the software packages that need to be installed, as well as information about previous installations, is available in some embodiments at the offsite update server 528, and in other instances at the repository site 600.*”).
- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Chamberlain and Curtis with the teachings of Moshir to include storing information on one or more other patch packages that have been previously applied to the first application in a package information file in order to check the availability of software patches by receiving a notice from administrator ([0128]).

18. For claims 10 and 21

the rejection of claim 9 is incorporated

But both Chamberlain and Curtis do not disclose

- detecting patch conflicts by comparing the patch information file to the package information file.

However, Moshir discloses

- detecting patch conflicts by comparing the patch information file to the package information file ([0080] *“These dependencies 912 are compared 808 with information about the target computer 806 previously stored in the inventory library 918. If the install information and the inventory information don’t match, then the patch is not installed. In some versions of the invention a message is sent to at least one administrator containing a list of components required (such as necessary hardware and software) for the install.”*).

Response to Arguments

Applicant's arguments filed on May 6, 2008 have been fully considered but they are not persuasive.

In the remarks, Applicant argues that:

- (a) In regard to claims 1 and 12, Moshir fails to teach or suggest a method for patching applications comprising deploying a patch package on a first computer running a first type of operating system, wherein the patch package comprises a patching mechanism and a first set of one or more new code components, and wherein the patching mechanism is also executable on a

second computer running a second type of operating system, and executing the patching mechanism on the first computer, wherein executing the patching mechanism comprises replacing a first set of one or more old code components in a first application with the first set of one or more new code components.

Examiner's response:

(a) Examiner disagrees.

Applicant's arguments with respect to claims 1 and 12 have been considered but are moot in view of the new ground(s) of rejection – see Chamberlain, Curtis and PatchLink, arts made of record, as applied hereto.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Junchun Wu whose telephone number is 571-270-1250. The examiner can normally be reached on 8:00-17:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JW

/Wei Zhen/

Supervisory Patent Examiner, Art Unit 2191